



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBraal, Deputy County Attorney

MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney

DATE: June 14, 2019

SUBJECT: Sunbreak Farms Petition for Administrative Hearing

BACKGROUND.

In 2017, the Florida Department of Environmental Protection ("FDEP") issued a Notice of Intent to Issue Permit for a Domestic Wastewater Facility Permit for Sunbreak Farms, LLC located in Indian River County and St. Lucie County. The FDEP permit was for the construction and operation of a Type I Biosolids Management Facility on property located at 5101 Minute Maid Road, Fort Pierce. St. Lucie County filed a petition for administrative hearing challenging the issuance of the FDEP permit. On June 20, 2017, the Indian River County Board of County Commissioners ("Board") voted to approve the filing of a motion to intervene in the matter. In February 2018, St. Lucie County withdrew its petition concerning the FDEP permit.

Despite the withdrawal of the petition, St. Lucie County and Indian River County have both been monitoring the Sunbreak Farms application to the South Florida Water Management District ("SFWMD") for a modification of an Environmental Resource Permit for the Type I Biosolids Management Facility. On May 24, 2019, SFWMD issued its Proposed Agency Action to deny the application. In the letter to Sunbreak Farms, SFWMD noted that it had sent requests for additional information requiring either the submittal of a monitoring plan or an alternative to demonstrate that the proposed pollution abatement practices function properly. SFWMD received a letter from Sunbreak Farms counsel advising that no monitoring plan or other alternative will be provided and requested that SFWMD determine the application complete.

On June 11, 2019, Sunbreak Farms filed a petition for an administrative hearing. The County Attorney's Office has been informed that an Initial Order may be rendered soon which will establish when and where the hearing will be set and how long the hearing will take. I have been told that St. Lucie County will be filing a petition to intervene shortly thus allowing St. Lucie County to have a say in these determinations. Thus, the County Attorney's Office seeks direction from the Board as to whether it wishes to also file a motion to intervene in the case.

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FUNDING.

Although the County Attorney's office does not anticipate any significant costs, funding for intervening, if necessary, will be provided by a budget amendment from General Fund/Reserve for Contingency to General Fund/County Attorney/Legal Services (00110214-033110).

RECOMMENDATION.

The County Attorney's Office recommends that the Chair allow for public comment on this matter and then have the Board vote whether to authorize the County Attorney's Office to move to intervene in the Sunbreak Farms petition.

ATTACHMENT.

Notice of Proposed Agency Action to Deny